IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION NO :13704 of 2006

Dated: 10th July 2006.

Between:

M/s Bajranj Infotech Systems Pvt. Ltd.

..... PETITIONER

AND

The Commercial Tax Officer, Vidyanagar Circle,
Hyderabad and others

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

WRIT PETITION NO :13704 of 2006

ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

The petitioner is a private limited company carrying on business of software development and other connected activities. The petitioner was awarded with a contract by the State of Andhra Pradesh; the details are as follows;

> " The petitioner was entrusted with the work of preparation of house hold supply cards by the government of Andhra Pradesh to the concerned District Collectors. The petitioner entered agreements with the respective District Collectors for establishment of designated photography locations (D.P.L's) for capturing information, photos, iris of the family of the beneficiary and has to prepare the house hold supply cards for which the petitioner is paid a consolidated amount of Rs.27.52 ps. The activity undertaken by the petitioner is in the nature of service and no component of sale is involved."

The 1st respondent proposes to levy tax, penalty along with interest on the activity of the petitioner and issued show cause notice dated 10-04-2006. It is a bald show cause notice, which does not disclose the basis on which the 1st respondent proposes to recover the tax,

penalty and interest. The petitioner claims to have filed representation dated 23-05-2006 requesting the respondent for the basis on which the show cause notice was issued. It is the allegation of the petitioner that without furnishing any information, the respondent proceeded to assess the petitioner and passed an assessment order dated
10-05-2006, hence, the present writ petition.

This Court ordered status quo prevailing as on that day on 06-07-2006. Today, when the matter is taken up for hearing, the learned Government Pleader, could not produce any material to sustain the show cause notice.

In the circumstances, we are of the opinion that there is a failure of natural justice as the petitioner was called upon to explain something, which is imperceptible. Consequently, the assessment order dated 10-05-2006 also, in our view, is vitiated. Therefore, both the show cause notice and the assessment order are quashed.

We are informed that consequent upon the assessment order, garnishee orders are issued to the
6th and 7th respondents.

In view of the quashing of the assessment order, the garnishee orders must also be necessarily quashed and accordingly, they are.

It is open for the 1st respondent to issue an appropriate show cause notice, if he has reason to

believe that the petitioner is still liable to proceed against and to take such appropriate steps, in accordance with law, to protect the interests of the Revenue, if the 1st respondent is so advised.

With the above directions, the writ petition is disposed of at the stage of admission.

J.Chelameswar, J

D.Appa Rao, J

10th July 2006
mrk